

Amended Minutes of the March 22, 2006 Meeting of the  
Commission on Governmental Ethics and Election Practices  
Held in the Commission's Meeting Room,  
PUC Building, 242 State Street, Augusta, Maine

Present: Chair Jean Ginn Marvin; Hon. Michael T. Bigos; Hon. Vinton E. Cassidy (by telephone); Hon. Andrew Ketterer. Staff: Executive Director Jonathan Wayne; Christopher Taub, Counsel (present for item 2); Phyllis Gardiner, Counsel (present for item 1 and items 3 through 12).

At 9:06 A.M., Chair Ginn Marvin convened the meeting. The Commission considered the following items:

**Agenda Item #1 – Ratification of Minutes of the February 23, 2006 Meeting**

Mr. Ketterer moved, Mr. Bigos seconded, and the Commission voted unanimously (3-0) to ratify the minutes of the February 23 meeting.

The Commission decided to take up Items 7 and 3 out of order and return to Item 2 after Item 12.

**Agenda Item #7 – Request for Waiver of Penalty/Bristol Republican Committee**

Jonathan Wayne explained that the Bristol Republican Committee filed a late report that was due on January 17 and could be assessed a maximum fine of \$500. Mr. Wayne said that he received a request for a waiver of the penalty from Lori Chesebro and a letter from Philip Roy, chair of the Maine Republican Party, in support of the waiver request.

Representative Jonathan McKane said that he did not dispute that the late filing occurred, but considered the penalty to be unreasonable based on the small size of the Bristol Republican Committee.

Philip Roy introduced himself as the treasurer for the Maine Republican Party and thanked the Commission for taking his agenda item out of order. Mr. Roy explained the process that the state party uses to train local party committee treasurers. Mr. Roy asked the Commission to reconsider the penalty given that it was a first offense and would cause an undue burden to the Bristol Republicans.

Mr. Ketterer asked Mr. Roy if the state party could reimburse local parties for paying fines. Mr. Roy replied that he would bring the question to the executive committee, but that available funds

were limited. Mr. Ketterer expressed the need for proper training of treasurers. Mr. Roy said that the state Republicans try to keep local treasurers informed, but will be more diligent in the future.

Mr. Bigos said that while Mr. Roy considers the fine to be excessive, it is within the guidelines of the law. Mr. Bigos said that the timely filing of reports is important for purposes of public disclosure.

Representative McKane asked if the fine was higher because the report was filed more than 30 days late. Mr. Bigos said the fine was based on 1% of money raised multiplied by the number of days filed late.

Representative McKane asked if the Bristol Republicans were aware that the fines were accumulating at that rate. Ms. Ginn Marvin replied that she thought the letter sent by Martha Currier-Demeritt to the Bristol Republicans contained information on how fines are calculated. Mr. Wayne said that the penalty formula is only sent once a report is filed late, although it is available on the Commission's website.

Mr. Bigos said that the public expects reports to be filed by a certain date and that late filings cause an inconvenience.

Mr. Roy agreed that it was a serious issue, but that the fine was excessive for a first offence. Mr. Roy recommended a penalty of \$250.

Mr. Bigos moved, and Mr. Ketterer seconded, that the Commission assess a penalty of \$250 to the Bristol Republican Committee. Mr. Bigos said he thought the \$250 amount was appropriate given the party's efforts to improve and the small amount of fundraising involved. Mr. Ketterer said that the penalty formula takes into account that the violation was a first offence.

Mr. Roy said it might help if letters from the Commission to committee treasurers could also be sent to committee chairs.

Ms. Ginn Marvin said that it was problematic to start cutting fines in half rather than following the penalty formula.

Representative McKane asked if there was a maximum penalty amount regardless of the amount of money raised by the Committee. Ms. Ginn Marvin responded that there is a \$500 maximum penalty for all local party committees. Representative McKane said that penalizing small-town committees at the same rate as those of large towns will discourage people from volunteering to work for the committees in the future.

Mr. Roy said that the Republican committees are working on improving their communication and that they do not wish to come before the Commission for any further penalties.

Mr. Ketterer said that the treasurer of the Bristol Republicans or the state Republican party could assist in paying the fine.

The Commission voted 1-2 (Mr. Bigos voted for the motion) to assess a penalty of \$250 toward the Bristol Republican Committee and the motion failed.

Mr. Ketterer moved, Ms. Ginn Marvin seconded and the Commission voted 2-1 (Mr. Bigos voted against the motion) that the staff recommendation of a \$500 penalty be assessed toward the Bristol Republican Committee.

### **Agenda Item #3 – Unpaid Penalty/Rep. Edward R. Dugay**

Mr. Wayne explained that Representative Dugay did not file accurate reports on time during his 2004 campaign. An initial penalty of \$4,110 was assessed in July 2005. Mr. Wayne reached an agreement with Representative Dugay to pay the fine in October 2005 but the Commission has not yet received the full amount. The Commission has received \$1,000 from Representative Dugay and is still awaiting \$3,110. Mr. Wayne recommended May 1, 2006 as a deadline to pay the remaining amount.

Representative Dugay said that he had three people willing to give him contributions of \$500 each toward the fines, but they were not willing to donate to him while the legislature was in session. Representative Dugay asked for a deadline of 30 days past the adjournment of the legislature.

Mr. Bigos asked Representative Dugay if he would mind the Commission specifying that the fine be referred to the Attorney General's office if it is not paid within 30 days past adjournment. Representative Dugay said he would prefer that the referral to the Attorney General's office be set at 60 days past adjournment.

Ms. Ginn Marvin asked if Representative Dugay responded to the letter sent to him on December 9, 2005. Mr. Wayne said that Representative Dugay had been in contact with the Commission staff.

Mr. Bigos moved, Mr. Ketterer seconded and the Commission voted unanimously (3-0) to grant Representative Dugay a final extension until 30 days following the adjournment of the legislature.

#### **Agenda Item #4 – Betsy Ross Fund**

Mr. Wayne said that the Betsy Ross Fund is a political action committee that was required to file a report electronically by 5:00 p.m. on January 17, 2006. The report was filed 2 hours late. Mr. Wayne said that the Commission staff recommends a fine of \$25 for the first instance of late filing by a PAC with no financial activity.

Ms. Ginn Marvin asked if the PAC had a balance in their account. Mr. Wayne responded that the PAC had a balance, but did not raise or spend any money during the reporting period. Mr. Wayne said that several PACs believed there was no penalty for filing late if they had no financial activity.

Mr. Ketterer moved, Mr. Bigos seconded and the Commission voted unanimously (3-0) to adopt the staff recommendation of a \$25 penalty toward the Betsy Ross Fund.

#### **Agenda Item #5 – Request by Paul Madore Regarding PAC Registration**

Mr. Madore introduced himself as being a member of the Maine Grassroots Coalition PAC. Mr. Madore said that the filing requirements are an excessive burden on PACs and people seeking to be part of the political process. Mr. Madore asked the Commission to reconsider the PAC re-registration requirement. Mr. Madore commented that the re-registration deadline did not appear on the list of PAC filing deadlines put out by the Commission staff.

Mr. Wayne said that it was not the intention of the Commission to make PAC operations more difficult. Mr. Wayne said that the re-registration requirement was a result of an investigation by the Portland Press Herald into the lack of up-to-date PAC information on file with the Commission. Mr. Wayne said that the Commission staff had recently simplified the PAC reporting forms and that the re-registration was not a complicated process. Mr. Wayne said that the Commission may recommend that the legislature revise the penalties for late re-registration.

Mr. Madore recommended that the re-registration deadline and the January 17 deadline coincide.

Mr. Ketterer said that the Commission could not go against the statutes as enacted by the legislature. Mr. Ketterer said the Commission could decide to change the filing deadlines as Mr. Madore recommended.

Mr. Madore said that he would have appreciated if the Commission notified PACs when the re-registration requirement was being considered so they could provide their input.

Ms. Ginn Marvin expressed the need for up-to-date information on PACs to be on file.

## **Agenda Item #6 – Request for Waiver of Penalty/Portland Democratic City Committee**

Sive Neilan introduced herself as chair and acting treasurer of the Portland Democratic City Committee. Ms. Neilan said that she did not receive any mailings from the Commission about filing deadlines. Ms. Neilan said that at the time the late filing occurred, the Committee did not yet have a written job description for their treasurer. Ms. Neilan said that it was difficult to find and retain treasurers. Ms. Neilan asked that the municipal committees be treated differently from the state committees due to less financial activity occurring at the local level and their reliance on volunteers.

Mr. Wayne recommended halving the penalty to \$500 due to turnover in the treasurer position. Mr. Wayne said that the Commission did not send notification of the filing deadlines to the Portland Democratic Committee because they had not filed a report since February 2004. Mr. Wayne said that it is in the law that state party committees are responsible for informing local party committees of the filing requirements. Mr. Wayne said that the Commission staff will send out reminders to all local committees, but that the staff relies on information provided by the state party committees.

Mr. Ketterer said that the Portland Democratic City Committee did not receive notices of filing deadlines because they failed to file previous reports. Mr. Ketterer said that the public has a right to know that a committee is dormant and not be required to repeatedly check with the Commission to see if a report has been filed.

Mr. Bigos asked when the Portland Democratic City Committee was first notified that a report was due.

Martha Currier-Demeritt said that she was contacted by Ms. Neilan, who asked her about the reporting requirements. Ms. Currier-Demeritt said that Ms. Neilan called her at the end of January, after the January 17 report was due, and turned in the report several weeks later.

Mr. Bigos acknowledged the high rate of turnover in the treasurer position, but said that since the Committee was financially active, it should have known that reports must be filed.

Ms. Ginn Marvin asked Ms. Currier-Demeritt why she did not send reporting information to the treasurer of the Committee.

Ms. Currier-Demeritt responded that Ms. Neilan was not on file as the treasurer. Since the Committee had not filed a report in more than a year, Ms. Currier-Demeritt did not try to contact anyone in the Committee about reporting.

Mr. Ketterer moved, Mr. Bigos seconded and the Commission voted unanimously (3-0) to assess a penalty of \$1,000 to the Portland Democratic City Committee.

### **Agenda Item #8 – Referral to Attorney General for Collection of Civil Penalties**

Mr. Wayne said at their January meeting, the Commission assessed penalties to Julia St. James, Sarah Trundy, Dan Rogers and Jessica Larlee. On January 20, the Commission sent a Findings of Fact and Order by regular and certified mail to all four individuals. None of the regular mail envelopes were returned to the Commission staff, while all of the certified mail envelopes were returned as unclaimed. The Commission staff sent an additional notice on February 27 by regular and certified mail warning that the civil penalties will be referred to the Attorney General if they are not paid. Julia St. James signed the return receipt card from this mailing. The regular mail sent to Dan Rogers was returned to the Commission. Mr. Wayne explained that the Commission has the ability under the law to refer the collection of civil penalties to the Attorney General if the penalties are not paid within 30 days. Mr. Wayne said that Jessica Larlee called the Commission staff and said that she did not receive the January 20 Findings of Fact and Order. Mr. Wayne said that the staff believes the notice of penalties have been received and recommends that the penalties be referred to the Attorney General's office.

Mr. Bigos asked Mr. Wayne if Dan Rogers also did not respond to the findings against his actions in the Biddeford special election. Mr. Wayne confirmed that this was the case.

Ms. Ginn Marvin asked if there is any requirement that the Commission be informed of a change of address. Mr. Wayne responded that there is no such requirement. Ms. Ginn Marvin asked how Mr. Wayne can be certain that the people penalized received notice of those penalties. Mr. Wayne said that Julia St. James received her materials from the February mailing and sent back the return receipt card. Mr. Wayne said he had doubts that Dan Rogers resided at the address given, but that Mr. Rogers told the Commission that he would receive any mail sent to that address. Mr. Wayne said that Mr. Rogers declined to accept the certified mail or regular mail sent to him.

Mr. Ketterer said that whether or not the materials were received, the people must have known that they were going to be penalized. Mr. Ketterer moved, Mr. Bigos seconded and the Commission voted unanimously (3-0) to refer the penalties against Julia St. James, Dan Rogers, Sarah Trundy and Jessica Larlee to the Attorney General.

Mr. Ketterer asked if the Commission members could be updated at a future meeting on the status of the Attorney General's progress in any enforcement action taken.

### **Agenda Item #9 – Assessment of Civil Penalty for Failure to File Report/Al Schulman**

Mr. Wayne said that the staff wishes to withdraw their recommendation of a penalty. Mr. Schulman had filed the required report, so Mr. Wayne recommended a penalty of \$100 to be assessed at a future Commission meeting.

Mr. Ketterer moved, Mr. Bigos seconded and the Commission voted unanimously (3-0) to table the motion to assess a penalty against Al Schulman for late filing of a campaign finance report.

### **Agenda Item #10 – Request for Waiver of Penalty/Washington County Tribal Track Coalition**

Mr. Wayne said that the Commission staff made an error in sending a re-registration reminder notice to the treasurer of the Washington County Tribal Track Coalition PAC rather than to the law office of Steven Lechner as he had requested. Mr. Wayne recommended that the Commission waive the penalty for late filing of the re-registration.

Mr. Bigos asked if the PAC had any financial activity. Mr. Wayne replied that the penalty was for a late re-registration rather than a late finance report. Mr. Wayne said that the PAC had a record of previously filing on time.

Mr. Ketterer moved and Mr. Bigos seconded that the Commission adopt the staff recommendation to waive the penalty against the Washington County Tribal Track Coalition for late filing of a re-registration.

Ms. Ginn Marvin asked how many PACs failed to file on time. Mr. Wayne responded that out of 137 PACs, 12 did not file the re-registration on time. Ms. Ginn Marvin asked if the Commission would be asked to grant waivers for the other late filers. Mr. Wayne recommended that they be addressed on a case-by-case basis.

Mr. Bigos asked when the Washington County Tribal Track Coalition originally filed a registration. Ms. Currier-Demeritt responded that the original registration was in 2005. Ms. Currier-Demeritt said that she sent the re-registration notice to the treasurer rather than to Mr. Lechner, who is the manager of the PAC.

Mr. Bigos asked if any information had changed when the PAC filed their re-registration. Ms. Currier-Demeritt responded that no information had changed since the original registration was filed.

Ms. Currier-Demeritt said that all PACs were sent a notice in August 2005 informing them of changes to the law, including the PAC re-registration requirement. Ms. Currier-Demeritt said she mailed the re-registration form and instructions on December 13, 2005. Two weeks prior to the final deadline, Ms. Demeritt said she also sent out an additional email to all PAC treasurers with email addresses on file.

Mr. Bigos asked Ms. Currier-Demeritt when the notice was sent to the treasurers. Ms. Currier-Demeritt responded that she may have given the original notice to the PAC when someone came into the office to register it in 2005. Mr. Bigos said that the PAC should still be held responsible for getting information on filing deadlines to the proper person, even if it requested that mailings be sent to someone other than the treasurer.

Phyllis Gardiner said that the statute requires PACs to re-register every two years, but the Washington County Tribal Track Coalition had not been in existence for two years before the re-registration deadline.

Ms. Currier-Demeritt said that the initial PAC registration form was received by the Commission staff on June 24, 2005. The PAC specified on the form that it wished Lechner Law Office to be the PAC's mailing address.

Mr. Ketterer said he would like to still present his original motion to waive the penalty. Mr. Bigos said he would still second the motion.

The Commission voted 2-1 (Ms. Ginn Marvin opposed the motion) to adopt the staff recommendation to waive the penalty against the Washington County Tribal Track Coalition for late filing of a re-registration.

#### **Agenda Item #11 – Request for Waiver of Penalty/Yarmouth Taxpayers Association**

Mr. Wayne said that the Yarmouth Taxpayer Association's treasurer, Michael Cowell, sent a letter stating that he did not receive the Commission's notice of re-registration requirements that was sent on December 13, 2005. Mr. Wayne said that Mr. Cowell claimed not to be aware of the re-registration requirement until March 7, 2006.

Ms. Currier-Demeritt said that she sent the notices by regular mail rather than certified mail or return receipt requested. Ms. Currier-Demeritt said that none of the mailings to Mr. Cowell was returned to her as undeliverable, so she assumed that he received the re-registration notice.

Mr. Wayne said that the staff wished to withdraw its recommendation that the penalty be waived since the re-registration notice should have been received. Mr. Wayne recommended a penalty of \$50 to \$100.



Mr. Bigos asked if the Yarmouth Taxpayers Association had been in existence for more than two years prior to the March 15, 2006 re-registration deadline.

Mr. Wayne said that the penalty should be less than \$250 because the penalty amount in the statute is for late filing of initial PAC registrations, while late filing of re-registrations should be seen as a lesser offence. Mr. Wayne said the PAC also had very little financial activity.

Mr. Ketterer said it was still important for inactive PACs to maintain up-to-date information with the Commission.

Mr. Bigos asked if the Yarmouth Taxpayers Association filed a finance report by January 17, 2006. Ms. Currier-Demeritt replied that it had, and the PAC initially registered in April 2004. Mr. Bigos said that the PAC had not yet been in existence for two years before the re-registration deadline. Ms. Currier-Demeritt said that she told every PAC they had to file a re-registration, regardless of when they first registered.

Ms. Gardiner said that the law stipulated that the re-registration deadline had to be between January 1 and March 2 of an election year.

Mr. Ketterer moved, Mr. Bigos seconded and the Commission voted 2-1 (Ms. Ginn Marvin voted against the motion) to assess a fine of \$100 to the Yarmouth Taxpayers Association for late filing of a re-registration.

#### **Agenda Item #12 – Finding of Violation of \$500 Contribution Limit/Cianchette for Governor 2002 and Cianbro Corporation**

Mr. Wayne said that Ron Harwood, a former employee of Cianbro Corporation, came to the Commission office in November 2005. Mr. Wayne said that, at that meeting, Mr. Harwood told him how Cianbro spent more than \$53,000 on employees, trucks and materials used to install campaign signs for Mr. Cianchette's 2002 campaign for governor. He said this activity was common knowledge among the company's employees. Mr. Wayne said that the Commission staff interviewed Mr. Harwood and four other former Cianbro employees who corroborated Mr. Harwood's report. Mr. Wayne said that Cianbro's assistance could be considered a contribution to Mr. Cianchette's campaign, in which case Cianbro would have exceeded the \$500 contribution limit. Mr. Wayne said that he sent a letter on March 2 to Mr. Cianchette, who replied saying that he and the company would not dispute any finding by the Commission that the company violated the \$500 contribution limit. Mr. Wayne recommended that the Commission find Mr. Cianchette and Cianbro Corporation in violation of the election law for making and accepting a contribution that exceeds \$500. Mr. Wayne said that the law at the time did not provide a penalty for exceeding the contribution limits. Mr. Wayne said that he received a phone call from Mr. Harwood in August 2003, but at the time, Mr. Harwood did not wish to disclose his name since he was a current employee of Cianbro. Mr. Wayne said he did not think

it would be useful to conduct a full investigation since so much time has passed since the alleged violations occurred. Mr. Wayne recommended that the Commission find that the company and the campaign were in violation which neither would dispute.

Chair Ginn Marvin invited Mr. Harwood to address his concerns to the Commission.

Mr. Harwood said that he was verbally threatened by his supervisor at Cianbro for bringing up the issue of company assistance toward Mr. Cianchette's campaign. Mr. Harwood said that political activity at Cianbro was pervasive. Mr. Harwood said the \$53,000 figure was based on money taken from his departmental budget, but more money may have been spent by other departments within the company. Mr. Harwood said that he thought Mr. Cianchette was aware of Cianbro's activities in support of his campaign. Mr. Harwood asked the Commission to launch a more thorough investigation and refer it to the Attorney General, if necessary.

Mr. Ketterer asked Mr. Harwood about his communications with the Internal Revenue Service. Mr. Harwood said that he reported Cianbro's campaign expenditures to the IRS immediately after he left the company. Mr. Harwood said he was told by the IRS that it would be several months or years before any investigation was launched. Mr. Ketterer said he would hesitate to investigate any further into the matter due to the inability to assess fines in the case and the limited resources of the Commission.

Mr. Wayne said that Cianbro was not under any obligation to report political contributions, whereas the Cianchette for Governor campaign was obligated to report any contributions received from Cianbro.

Mr. Ketterer asked if Mr. Cianchette should be required to file an amended report listing the in-kind contributions made by Cianbro.

Mr. Bigos asked if penalties for inaccurate reporting would apply to the Cianchette campaign. Mr. Wayne said that there could be a maximum penalty of \$5,000 per report for failure to file an accurate report by the deadline.

Ms. Gardiner said that the statute has been amended to allowed penalties for substantial misreporting of contributions and expenditures, but this provision did not exist in 2002. However, an over-the-limit contribution was a violation in 2002 as it is now.

Mr. Bigos said that intentional misreporting by Mr. Cianchette would be a much more serious violation and was a separate issue from the over-the-limit in-kind contribution from Cianbro.

Mr. Ketterer said that an investigation was not necessary since Cianbro and Mr. Cianchette have not contested the allegations. Mr. Ketterer recommended that Mr. Cianchette be required to submit an amended campaign finance report.

Mr. Harwood said that due to the serious and intentional nature of the violation, the matter should be referred to the Attorney General if the Commission does not launch its own investigation.

Mr. Wayne asked if the Commission would like to receive a recommendation of further action from the Commission staff upon receiving an updated campaign finance report from Mr. Cianchette for its consideration at its next meeting. Mr. Ketterer said that he thought it would be appropriate for the Commission staff to make an advisory recommendation in this case. Mr. Ketterer said it would be difficult for the Attorney General to build a case against Mr. Cianchette.

Chair Ginn Marvin instructed the Commission staff to request amended reports from the Cianchette campaign.

Mr. Bigos asked Mr. Harwood if he planned on bringing a civil complaint against Mr. Cianchette or Cianbro. Mr. Harwood replied that he did not at that time. Mr. Bigos said that he did not wish the Ethics Commission to be used as part of a third-party civil action.

Ms. Gardiner left the meeting, with Mr. Taub replaced her as counsel for agenda item #2.

### **Agenda Item #2 – Legislative Ethics Advisory Opinion/Complaint**

Steve Hinchman introduced himself as a staff attorney with the Conservation Law Foundation. Mr. Hinchman said he had submitted a written request that the Commission take off the table his request to investigate Representative Saviello. Mr. Hinchman said that the Conservation Law Foundation objects to the decision made by the Commission at its last meeting, its use of an executive session, and its insistence that public comments be limited to three minutes. Mr. Hinchman said that legislators have an obligation to recuse themselves from situations involving an apparent conflict of interest. Mr. Hinchman detailed Representative Saviello's attempts to change the policies of the Maine Department of Environmental Protection to benefit his employer. Mr. Hinchman said that the legislation considered by Representative Saviello in his committee had a disproportionate impact on his employer, International Paper. Mr. Hinchman estimated that Representative Saviello's actions led to \$50 million in benefits for International Paper.

Mr. Bigos asked how Mr. Hinchman arrived at the \$50 million figure. Mr. Hinchman explained that it would have cost International Paper that amount to meet water quality standards

Mr. Bigos asked what further action Mr. Hinchman would like the Commission to take given that Representative Saviello had removed himself from the Natural Resources Committee. Mr. Hinchman said that Representative Saviello could return to the committee at any time and there was no judgment against his actions.

Mr. Cassidy said that the Speaker of the House, and not the Commission, had jurisdiction over whether Representative Saviello would be allowed to return to the committee.

Mr. Bigos asked Mr. Hinchman whether he approached any legislators about bringing the complaint to the Commission. Mr. Hinchman said that many legislators were concerned that the Conservation Law Foundation was not heard by the Commission, and some offered to assist the Foundation in bringing its case before the Commission. Mr. Hinchman said that he had declined those offers since the Commission already had the ability to hear the Foundation's complaint. Mr. Hinchman said he was also concerned that citizens would not have a venue for complaints against legislators. Mr. Hinchman said that he would be at risk of losing his bar license if he gave any false testimony before the Commission. Mr. Hinchman disputed the claim that all of Representative Saviello's actions occurred during a prior session of legislature, saying that it was an ongoing problem.

Ms. Ginn Marvin said that the Commission limited comments to three minutes at their last meeting due to time constraints faced by the Commission members. Ms. Ginn Marvin said that she wished everyone to have an equal chance to be heard during that meeting.

Mr. Ketterer asked Mr. Hinchman to clarify which actions taken by the Commission at their last meeting he disagreed with. Mr. Hinchman said that the process by which the Commission reached its decisions was unfair. Mr. Hinchman disagreed with the determination that Representative Saviello's employment status alone was not a conflict of interest. Mr. Hinchman disagreed with the Commission's decision not to hear evidence relating to specific instances of conflicts of interest. Mr. Hinchman said he believed the statute required objective criteria to determine a conflict of interest.

Mr. Ketterer asked for the names of the legislators who offered to assist Mr. Hinchman. Mr. Hinchman declined to provide the names, saying that it was up to the individual legislators to approach the Commission.

Mr. Hinchman said that the Commission has the ability to take up an investigation into legislative conflict of interest if the conflict is ongoing. Mr. Hinchman said that issues relating to lawmakers, their employers and possible conflicts of interest should be addressed in the Legislative Ethics and Conduct guidebook.

Mr. Ketterer asked what sanctions Mr. Hinchman thinks should be imposed on a lawmaker who is found to be involved in a conflict of interest. Mr. Hinchman said that the Commission does not have the authority to issue sanctions, but can instead issue findings of fact and conclusions of law.

Mr. Hinchman said that the Commission would not be required to enter executive session to hear a complaint against a legislator if the matter was already public knowledge.

Neil Ward introduced himself as program director for the Androscoggin River Alliance. Mr. Ward said that by tabling the complaint against Representative Saviello, the Commission removed itself as a last resort for concerned members of the public.

Mr. Bigos asked Mr. Ward if he had raised his concerns with any members of the legislature. Mr. Ward replied that the Androscoggin River Alliance had not contacted any legislators. Mr. Bigos said that the Commission is not a place to have a policy debate about environmental regulation.

Naomi Schalit introduced herself as the executive director of Maine Rivers. Ms. Schalit said that Maine Rivers did go to legislative leaders with their concerns about Representative Saviello. Ms. Schalit said that there were a number of other attempts made to address the problem before bringing the complaint to the Commission.

Joseph Greenier introduced himself as a concerned citizen. Mr. Greenier said that papers mills had successfully gained access to documents through the Freedom of Information Act in the past, and these companies should not be shielded from inquiry. Mr. Greenier said that the actions of the individual should be considered rather than who they are.

Michele Greenier introduced herself as a concerned citizen. Ms. Greenier expressed her concern that the public was excluded from the last Commission meeting and wished to see the records submitted by the parties involved in the complaint against Representative Saviello. Mr. Wayne stated that the Commission was willing to provide copies of the documents to anyone who requests them.

Charles Harvey introduced himself as an attorney representing Representative Saviello. Mr. Harvey said that the Conservation Law Foundation had increased the number of actions it requested of the Commission since the last meeting. Mr. Harvey said that if the Commission decides to hold a hearing, he will do whatever is necessary to clear Representative Saviello's name. Mr. Harvey said that the Conservation Law Foundation was using the Commission to advance its political objectives. Mr. Harvey said that the executive session from the last meeting was required by statute since a third-party complaint was involved. Mr. Harvey said that Representative Saviello's responses to the complaints against him were provided to all those parties making complaints and to members of the press. Mr. Harvey said the Commission can

only decide on conflicts of interest, not on general conduct issues. Mr. Harvey said that if the Commission had jurisdiction over previous sessions of the legislature, there would be no limit to how far back they could go to investigate past instances of legislative ethics violations. Mr. Harvey said that the Conservation Law Foundation had already seen their desired outcome, as Representative Saviello was no longer serving on the Natural Resources Committee. Mr. Harvey said that the advantage of having another legislator bring a complaint to the Commission is that the legislator must pay the attorney's fees of the accused individual if the Commission rules against the complainant. Mr. Harvey said that the legislature has the means and authority to police itself and address complaints against legislators.

Representative Saviello said that the Commission provided good guidance for legislators facing potential conflicts of interest. Representative Saviello explained his decision not to return to the Natural Resources Committee.

Mr. Ketterer asked Mr. Harvey about his opinion on whether Mr. Hinchman's law license would be on the line if he were to testify before the Commission. Mr. Harvey responded that there was a different standard for attorneys than for legislators.

Mr. Ketterer asked Mr. Harvey about limiting the jurisdiction of the Commission to the current session of the legislature. Mr. Harvey said that since similar bills return in subsequent sessions, it would be easy for someone to claim that a conflict of interest is ongoing even though the conduct did not occur during the current session if the Commission was not limited in its scope.

Mr. Harvey said that the Commission should not allow itself to become a tool for lobbyists to influence the legislature.

Mr. Wayne said that in 1988, the Maine Real Estate Commission filed a letter with the Ethics Commission complaining about the conduct of three members of the legislature. The legislators had written a letter to the Real Estate Commission promising to expand their statutory authority in return for dropping a complaint. The Ethics Commission determined that this was a case of undue influence and submitted an advisory opinion to the legislature.

Chris Taub said that the statute is ambiguous about whether the Commission is limited to addressing the current legislature if it is acting on an issue that was not brought by a sitting legislator. Mr. Taub said that complaints cannot be brought against former legislators, only those currently serving in the legislature. Mr. Taub said that third-party complaints are first considered by the Commission's executive director and legal counsel before being referred to the Commission members. Mr. Taub said that third-party complainants could be sued for defamation if they gave false information to the Commission.

Ms. Ginn Marvin moved, and Mr. Cassidy seconded, that the Commission leave the item considering the Conservation Law Foundation complaint against Representative Saviello on the table.

Ms. Ginn Marvin said that the Conservation Law Foundation seemed like it wanted the Commission to change the rules. Ms. Ginn Marvin said the Commission has already resolved the conflict of interest question and there was no new information since the last meeting.

Mr. Cassidy said that the legislature has an Ethics Committee to address conflict of interest questions. Mr. Cassidy said there was no evidence that Representative Saviello voted for any bill that pertained only to his employer. Mr. Cassidy said that the Commission did not have the authority to put Representative Saviello back on the Natural Resources Committee.

Mr. Ketterer said that Representative Saviello's employer does not preclude him from serving on the Natural Resources Committee, as the Commission decided at its last meeting. Mr. Ketterer said that by tabling the motion, the Commission was not dismissing it. Mr. Ketterer said that legislators do not need the consent of the Conservation Law Foundation to come forward with a complaint to the Commission, but none had done so. Mr. Ketterer said there should be a process for the public to present a complaint against a legislator. Mr. Ketterer said his decision was not influenced by the media response to the previous meeting.

Mr. Bigos said that if the investigation goes forward, there should be a focused hearing on the subject. Mr. Bigos said that his reading of the law has changed since the last meeting, and that it would be difficult for a legislator to come forward with a complaint against a fellow legislator. Mr. Bigos said that the letter sent to the Speaker of the House was useful, but he does not wish the complaint against Representative Saviello to be passed on to anyone else to decide. Mr. Bigos said that the Commission had the authority to take up the issue itself. Mr. Bigos asked that the law be clarified to prevent uncertainties about ethics complaints in the future.

Mr. Cassidy asked if the motion should be that the complaint be taken off the table rather than left on the table. Mr. Taub said that in order for the motion to initiate an investigation, a majority vote is required.

The Commission voted 2-2 (Mr. Ketterer and Mr. Bigos opposed the motion) to leave the item considering the Conservation Law Foundation complaint against Representative Saviello on the table. The motion failed and the item stayed on the table.

There being no further business, Mr. Bigos moved, Ms. Ginn Marvin seconded, and the Commission voted unanimously (4-0) to adjourn.

Respectfully submitted,

Jonathan Wayne  
Executive Director